

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

IN THE MATTER OF:

MOUNTAIN VIEW COUNTRY CLUB, INC.,  
Respondent

and

Case: 21-CA-083930

LABORERS' PACIFIC SOUTHWEST  
REGIONAL ORGANIZING COALITION,  
LABORERS' INTERNATIONAL UNION OF  
NORTH AMERICA, AFL-CIO,  
Charging Party

**RESPONDENT MOUNTAIN VIEW COUNTRY CLUB, INC.'S EXCEPTIONS TO THE  
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

In accordance with Rule 102.46 of the Rules and Regulations of the National Labor Relations Board, Respondent Mountain View Country Club, Inc. ("Respondent") hereby takes exception to the decision of the Administrative Law Judge Mary Miller Cracraft ("ALJ") dated January 24, 2013 ("Decision" or "ALJD") as follows:

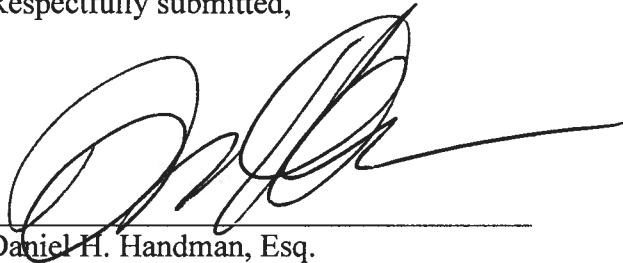
1. The ALJ's factual and legal conclusion that Respondent violated section 8(a)(5) of the act (29 U.S.C. §158(a)(5) by "fail[ing] to provide the information [requested by the Union] in a reasonably prompt manner." (ALJD 4:6-17).
2. The ALJ's failure to consider the totality of the circumstances in deciding that Respondent did not provide "the information [requested by the Union] in a reasonably prompt manner." (ALJD 4:6-17).
3. The ALJ's refusal to consider evidence that the Union itself had delayed repeatedly in providing information in deciding that Respondent provide "the information [requested by the Union] in a reasonably prompt manner." (ALJD 4:6-17).

4. The ALJ's incorrect decision that the Union had not waived its request for the information at issue by informing counsel for Respondent that the Union was considering abandoning the bargaining unit at issue. (ALJD 3:11-18, 4:6-17).

5. Because the NLRB does not have a proper quorum and cannot lawfully act, it must refrain from exercising jurisdiction over this matter or from entering any Order in this matter. *See, e.g., Noel Canning v. National Labor Relations Board*, \_\_\_ F.3d \_\_\_ (D.C. Cir. Jan. 25, 2013) (Slip Op. at 3, 30, 44); *see also New Process Steel v. NLRB*, 560 U.S. \_\_\_, 130 S. Ct. 2635 (2010).

Dated: February 21, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Handman', with a long horizontal line extending to the right.

Daniel H. Handman, Esq.  
Hirschfeld Kraemer LLP  
233 Wilshire Blvd., Suite 600  
Santa Monica, CA 90403  
Attorneys for Respondent  
Mountain View Country Club, Inc.

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**PROOF OF SERVICE OF RESPONDENT MOUNTAIN VIEW COUNTRY CLUB, INC.'S  
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EXCEPTIONS TO THE  
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 233 Wilshire Boulevard, Suite 600, Santa Monica, California 90401. On February 21, 2013, I served the Memorandum of Points and Authorities ISO Exceptions to the Decision of the Administrative Law Judge by placing a copy of it in a sealed envelope(s) with postage thereon fully prepaid, in the United States mail at Santa Monica, California addressed as follows:

Laborers' Pacific Southwest Regional  
Organizing Coalition  
4401 Santa Anita Ave., Suite 214  
El Monte, CA 91731-1611

Carols R. Perez, Attorney at Law  
Reich, Adell & Cvitan  
3550 Wilshire Blvd., Suite 2000  
Los Angeles, CA 90010-3860

Olivia Garcia, Regional Director  
National Labor Relations Board  
Region 21  
888 South Figueroa Street, Ninth Floor  
Los Angeles, CA 90017-5449

National Labor Relations Board  
Office of the Executive Secretary  
1099 14<sup>th</sup> Street, NW  
Washington, D.C. 20570

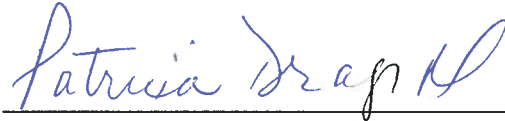
I also caused a copy of the Memorandum of Points and Authorities ISO Exceptions to the Decision of the Administrative Law Judge to be filed by hand on February 21, 2013 at:

National Labor Relations Board  
Office of the Executive Secretary  
1099 14<sup>th</sup> Street, NW  
Washington, D.C. 20570

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited in the U.S. Postal Service on that same

day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 21, 2013, at Santa Monica, California.



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Patricia Dragotta